

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRIAN COFFEY)	CASE NO. 1:18-cv-02675
On behalf of himself and all others)	
similarly situated,)	JUDGE CHRISTOPHER A. BOYKO
)	
Plaintiff,)	
v.)	
)	<u>JOINT MOTION FOR</u>
BUCKEYE SHAKER SQUARE)	<u>RESCHEDULING OF FAIRNESS</u>
DEVELOPMENT CORPORATION,)	<u>HEARING AND APPROVAL OF</u>
et al.)	<u>NOTICE</u>
Defendants.)	

The parties respectfully and jointly move the Court to set a new date for the fairness hearing (currently scheduled for May 13, 2020) and approve the attached Third Amended Proposed Notice.

The Court's March 9, 2020 Order Granting Preliminary Approval of Class and Collective Action Settlement (ECF#39) was not served by the ECF system. The parties' counsel learned of it on April 20, 2020.

The Court's Order scheduled the fairness hearing for May 13, 2020 and approved the parties' proposed Second Amended Notice (ECF #36) to Potential Opt-Ins and Settlement Class Members pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216(b), and Fed. R. Civ. P. 23(e). The Notice was to give recipients thirty days

from the date of mailing to submit signed consent forms pursuant to § 216(b), opt out of the settlement pursuant to Rule 23, or file objections to the settlement.

The parties respectfully ask the Court to set a new date for the fairness hearing, approximately sixty day from the date of the order scheduling it. The Notice can then be mailed to Potential Opt-Ins and Settlement Class Members and give them the prescribed time period to respond.

The parties also ask the Court to approve the attached Third Amended Notice. It is identical to the Second Amended Notice (ECF #36), except that it includes social-distancing protocols. General Order 2020-05, paragraph 5, provides that “judges will conduct civil pretrial proceedings by telephone or video conferencing where practicable.” In the present case, the proposed Third Amended Notice informs class members that the Court will conduct the fairness hearing telephonically or by video conferencing and provides them the opportunity to apprise the Court whether they wish to appear and be heard.

The parties have attached a proposed order addressing these matters. The order would direct Plaintiffs’ Counsel to file a declaration prior to the fairness hearing certifying that the Notice was distributed to Potential Opt-Ins and Settlement Class Members as prescribed. If one or more Class Members have submitted an objection, request to appear, or request for exclusion, counsel’s declaration would inform the Court of the names and specifics.

Respectfully submitted,

s/ Scott D. Perlmutter

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PROOF OF SERVICE

I certify that on April 20, 2020, the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

s/ Scott D. Perlmutter
Scott D. Perlmutter (0082856)